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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BANGACHON, WILLIAM L

ART UNIT PAPER NUMBER

2635

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/755,714

Applicant(s)

BERQUIST ET AL.

Examiner

William Bangachon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18, 19, 22-27 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 15, 18, 23 and 27 is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-14, 22, 24-26 and 30-33 is/are rejected.
- 7) ☒ Claim(s) 10, 15, 18, 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/9/2004 with respect to claims 1, 4-16, 22-27, and 31-33 have been fully considered but they are not persuasive.
2. In response to applicant's argument (page 10, 2nd paragraph) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., displaying the location of the sought object relative to the location of the interrogation area) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
3. In response to applicant's argument (page 11, last paragraph) that the visible of audible indication of Ruppert relates to bar codes, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576,

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152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Specification

4. Objection to the specification as failing to provide proper antecedent basis for the claimed subject matter is withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 4-9, 11-14, 16, 22, 24-26, 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,640,002 (Ruppert et al) in view of USP 4,827,395 (Anders et al).

In claims 1 and 30, Ruppert et al teach of a portable RFID reader (314) for use in interrogating RFID tags (figure 20) associated with items of interest, comprising:

- (a) an RFID interrogation source {col. 22, lines 59-65; col. 23, lines 6-10; col. 44, lines 63-67};
- (b) an antenna (304, 307, 440) {col. 23, lines 10};
- (c) a processor (320);
- (d) a display (figures 1 and 13; figures 16 and 19: 308, 328); and
- (e) a user interface (328, 308A, 308B)

Ruppert does not disclose "showing on the display an item of interest as a second graphical component relative to the first graphical component indicating a location within the interrogation area". Anders et al, in the same field of endeavor (portable RFID systems), is relied upon to teach such features as shown in figure 29, for

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the purpose of locating objects within an interrogation area {Anders, col. 36, line 36-61; col. 37, lines 11-26}. Clearly, the graphical depiction of the location of an object within an interrogation area in the display of Anders et al provides a visual representation to a user of where an object may be located. And obviously, the graphical depiction of the location of an object within an interrogation area in the display, as taught by Anders, is desirable in the system of Ruppert because these provides a shopper with a visual depiction on where objects in a grocery store might be, to one of ordinary skill in the art.

In claim 4, the processor and display are components of a hand-held computer (320) {Ruppert, col. 17, lines 29-36}.

In claim 5, the display may be activated by touch {Ruppert, paragraph-bridging cols. 17 and 18; Anders, col. 36, lines 48-61}.

In claim 6, the user interface further includes text associated with the item of interest may be presented on the display for observation by a user as shown in figures 1 and 13 {Ruppert, col. 30, lines 4-32; Anders, col. 36, lines 48-61}.

In claim 7, Rupert et al does not disclose expressly **“at least one audio signal for providing information to the user related to an interrogated RFID tag”**. Rupert et al teach of mixed shopping for products with both barcodes and RFID tags. When a shopper picks a product off the shelf, the product ID is input in the system either by

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scanning or interrogation {col. 32, lines 9-20}. If there is a good reading on the scanned product, a audible indication is performed {col. 27, lines 60-64}. Obviously, a visible or audible indication is also performed on an interrogated RFID tag because whether a product is scanned or interrogated, the ID of the product is the input to the system, to one of ordinary skill in the art. Anders teach of "the use of audio signal for providing information to the user related to an interrogated RFID tag" for the purpose of guiding the user to a location of an object {Anders col. 36, line 63-col. 37, line 26}. Obviously, these features are desirable in the system of Ruppert because it adds an additional tool for locating an object, to one of ordinary skill in the art.

In claim 8, "the audio signal is provided each time an RFID tag is interrogated" whether it is a bad read or a good read {Ruppert, col. 27, lines 60-64; Anders, paragraph bridging cols. 36 and 37}.

In claim 9, the portable RFID reader of claim 7, wherein the audio signal is only provided when the RFID tag of an item meeting a predetermined criterion is interrogated {Ruppert, col. 27, lines 60-64; Anders, paragraph bridging cols. 36 and 37}. In this case, a successful decoding operation was performed.

In claim 11, the portable RFID reader of claim 10, wherein the criterion in response to which the audio signal is provided may be presented on the display for

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observation by a user {Ruppert, col. 32, lines 17-20; Anders, paragraph bridging cols. 36 and 37}.

In claims 12 and 24, “at least one light for providing information to the user” {Anders, paragraph bridging cols. 36 and 37},

In claims 13 and 25, clearly, there has to be at least one light that is illuminated each time an RFID tag is interrogated, as a visible indicator {Anders, paragraph bridging cols. 36 and 37}.

In claims 14 and 26-27, the portable RFID reader of claim 12, wherein the light is only illuminated when the RFID tag of an item meeting a predetermined criterion is interrogated {Anders, paragraph-bridging cols. 36 and 37}.

In claim 16, the portable RFID reader of claim 15, wherein the criterion in response to which the at least one light is illuminated may be presented on the display for observation by a user {Anders, paragraph bridging cols. 36 and 37}.

Claim 17 recites the combination of claims 1-3 and therefore rejected for the same reasons.

Claim 22 recites the combination of claims 1 and 7-11 and therefore rejected for the same reasons.

Claims 24-25 recites the combination of claims 1 and 13-14 and therefore rejected for the same reasons.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,640,002 (Ruppert et al) in view of USP 4,827,395 (Anders et al), and further in view of USP 6,318,636 (Reynolds et al).

In claim 19, Ruppert in view of Anders does not disclose expressly the use of bars and icons. Reynolds et al teach of using the display graphics to indicate a bad read from a good read {figures 6 and 7; col. 8, line 63-col. 9, line 20} for the purpose of providing an intuitive output {Reynolds, col. 2, lines 48-50; col. 9, lines 21-33}. Clearly, these features are desirable in the system of Ruppert to indicate a bad read from a bad read. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have used the display graphics to indicate the location of an item of interest wherein claim 18 uses bars and claim 19 uses icons, in the system of Ruppert, as taught by Reynolds, because this will distinguish a bad read from a good read.

Allowable Subject Matter

10. Claims 10, 15, 18, 23, 27, are allowed.
11. Claims 10, 15, 18, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Examiner Contact Information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Bangachon whose telephone number is (571)-272-3065. The examiner can normally be reached on 4/4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (571)-272-3068. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9314 for regular and After Final formal communications. The examiner's fax number is (571)-273-3065 for informal communications.

Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

William L Bangachon
Examiner
Art Unit 2635

February 16, 2005

MICHAEL HORABIK
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